

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SECOND AMENDMENT ARMS, et)	
al,)	
)	
Plaintiffs,)	
)	No. 10-cv-4257
vs)	
)	
CITY OF CHICAGO,)	
)	
Defendant.)	

The discovery deposition of TONY KOLE,
taken in the above-entitled cause before Steven J.
Brickey, CSR, State of Illinois, at 30 North
LaSalle Street, Chicago, Illinois, on the 1st day
of August, A.D., 2018, commencing at 10:08 o'clock
a.m.

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1 A. No, I've heard of them, but I'm not
2 acquainted with them.

3 **Q. And you don't know anything about**
4 **Second Amendment Arms' plans to open a gun store**
5 **in Chicago?**

6 A. No, I don't know anything about
7 their plans.

8 **Q. So why are you suing the City?**

9 A. At the time, I was a resident of the
10 city and specifically the issue of -- I think some
11 of the other issues had been resolved in the
12 courts, specifically conceal carry, you know, the
13 right to possess handguns in the home, so on and
14 so forth, but with respect to this lawsuit it's
15 the possession of laser sight accessories and that
16 is something that I am contesting as not being
17 lawful, if you will.

18 **Q. So you're interested in purchasing**
19 **laser sight accessories?**

20 A. Purchasing and possessing.

21 **Q. Purchasing and possessing --**

22 A. Yes.

23 **Q. -- within the City of Chicago?**

24 A. Sure. Absolutely.

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1 **Q. Okay. Other than Mr. Sigale, did**
2 **you talk to anyone about your deposition today?**

3 A. No.

4 **Q. Did you review any documents in**
5 **preparation for the deposition?**

6 A. I reviewed a document by a laser
7 manufacturer that touts the benefits of laser
8 sight accessories.

9 **Q. You don't have that -- that document**
10 **with you?**

11 MR. SIGALE: For the record, we've
12 disclosed it.

13 MR. TRESNOWSKI: Okay. Okay.

14 MR. SIGALE: It's the Crimson Trace
15 article. So we've turned it over.

16 MR. TRESNOWSKI: Okay.

17 BY MR. TRESNOWSKI:

18 **Q. What is your current occupation?**

19 A. Elevator mechanic.

20 **Q. And where do you work as an elevator**
21 **mechanic?**

22 A. All over the place, all over Cook
23 County, in the City of Chicago quite frequently.
24 The suburbs as well.

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1 **Q. How frequently are you in Chicago?**

2 A. Pretty much every day of the week.

3 **Q. Every day of the week. I meant to**
4 **ask how frequently are you in Chicago working?**

5 A. I would say average three out of
6 five days a week.

7 **Q. Have you ever worked in the firearms**
8 **industry?**

9 A. Yes.

10 **Q. And can you describe?**

11 A. I was a business owner in a firearms
12 retail operation.

13 **Q. Was that a brick and mortar store?**

14 A. It was mainly online. I had an
15 office, a brick and mortar office, but not a
16 traditional retail store front.

17 **Q. Was that in Chicago?**

18 A. It was in Norridge.

19 **Q. Norridge?**

20 A. Correct. Additionally, I'm also a
21 certified NRA pistol instructor and Illinois
22 conceal carry instructor as well.

23 **Q. Do you still sell firearms --**

24 A. No. No.

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1 **Q. -- or firearm accessories?**

2 A. No, I do not.

3 **Q. How many firearms do you currently**
4 **own?**

5 A. I'd say between 15 and 20.

6 **Q. And how many of those are equipped**
7 **with laser sight devices?**

8 A. Currently, I own one laser sight
9 accessory and one of those firearms are equipped
10 with it, but it is interchangeable between my
11 other firearms.

12 **Q. So you own one laser sight device --**

13 A. Correct.

14 **Q. -- that you currently have affixed**
15 **to one firearm?**

16 A. Correct.

17 **Q. But it can be removed and --**

18 A. Attached to --

19 **Q. -- attached to --**

20 A. -- other firearms.

21 **Q. All the other firearms?**

22 A. All but one.

23 **Q. All but one.**

24 A. All but one.

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1 standard 1913 rail. So the Streamline TRL-2 is
2 adaptable to many types of firearms regardless of
3 whether the accessory rail has been standardized
4 or not.

5 **Q. So are you currently looking to**
6 **purchase another laser sight?**

7 A. Absolutely.

8 **Q. And you wish to purchase it within**
9 **the City of Chicago?**

10 A. It would -- I would not be opposed
11 to it. It would be convenient considering I spend
12 a lot of time here during the week. Sometimes
13 it's easier to make a stop on the way home as
14 opposed to going home and then going out to the
15 local gun store and driving however many miles.
16 It's just -- for me, it would be convenient.

17 **Q. Can you buy laser sights on the**
18 **Internet?**

19 A. Yes.

20 **Q. Would that be more convenient than**
21 **buying it at a brick and mortar store?**

22 A. It can be. I'm sure it can be.
23 Sometimes, you know, like most people the instant
24 gratification, you know, factor is something that

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1 is sought after. Sometimes I'll order things on
2 Amazon if I don't need it right away or I don't
3 want it right away. Sometimes I'm willing to pay
4 more to have it right away. It just varies. For
5 an example, let me give you a great example.

6 If I did -- because I do have a
7 valid conceal carry permit. So if I were to -- if
8 it were legal to carry or to have a laser sight
9 accessory mounted to my carry pistol and while in
10 the City of Chicago something happens, I drop it,
11 it breaks, it no longer functions and, to me, it's
12 a critical component of my defensive weapon
13 system, I may be inclined to go and buy one
14 because I have an immediate need for it and my
15 immediate need trumps the fact that I'm going to
16 save 20 percent by ordering it from Amazon, for
17 example. So I think there is many different
18 scenarios.

19 For me being kind of a guy's
20 guy, buying things, having them -- you know, the
21 tactile experience and having them right away and
22 walking out of the store with them is -- is part
23 of my makeup. You know, on the other hand,
24 sometimes I like to save money. But you have to

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1 work brings me here at least three days a week
2 and, you know, I have a failure of a critical
3 component and, to me, it's a very important factor
4 that I rectify that failure, you know, I'm not
5 going to drive home and then drive 20 miles to the
6 nearest brick and mortar store if there is one
7 within a reasonable distance from, you know, where
8 I'm at in the city currently on my way home.

9 **Q. Are you permitted in your current**
10 **job to carry a firearm on-the-job?**

11 A. Yes. Let me rephrase it. I'm not
12 prohibited. The only thing -- prohibitions that I
13 run into carrying a firearm are those by law which
14 are government buildings, private businesses that
15 display, you know, a sign that they don't allow
16 conceal carry on their premises, so on and so
17 forth.

18 So I don't have an actual letter
19 of authorization from my employer, but there is
20 nothing prohibiting me to carry a firearm legally
21 as long as I do so legally.

22 **Q. So when you come into the city to**
23 **work three to five days a week, do you -- do you**
24 **carry a firearm?**

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1 A. Absolutely.

2 **Q. And do you ever have to work on**
3 **elevators in buildings that prohibit --**

4 A. Sure.

5 **Q. -- firearms?**

6 A. Yes.

7 **Q. What do you do in that circumstance?**

8 A. I store it in a locked container in
9 my vehicle.

10 **Q. As a firearm owner and instructor of**
11 **firearm classes, I assume you've also received**
12 **training --**

13 A. Yes.

14 **Q. -- on firearm use?**

15 A. Yes, correct. Absolutely.

16 **Q. Have you been trained to fire a**
17 **firearm without a laser sight accessory attached**
18 **to it?**

19 A. I have.

20 **Q. And how many times would you**
21 **estimate that you have fired a firearm without a**
22 **laser sight attached to it?**

23 MR. SIGALE: Do you mean like how
24 many times has he -- I'm just going to object as

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1 **device for aiming such you'd be a less accurate**
2 **shooter without it?**

3 MR. SIGALE: I'm just going to
4 object as to form of the question. Does you with
5 air quotes mean him Mr. Kole or does you, air
6 quotes, mean some hypothetical person?

7 MR. TRESNOWSKI: I was referring to
8 Mr. Kole.

9 BY MR. TRESNOWSKI:

10 Q. About, you know -- whether you feel
11 by using a laser sight frequently that you become
12 reliant on the laser sight for -- for aiming such
13 that you would be a less accurate shooter if you
14 didn't have --

15 MR. SIGALE: I'm still just going to
16 object as to the vagueness of the word frequently,
17 but if you understand the question and you can
18 answer it, go ahead and answer it.

19 BY THE WITNESS:

20 A. I have a general understanding. So
21 basically -- no. A laser sight accessory has many
22 functions. Accuracy is one of them and I don't
23 believe that if one were to use a laser to aim
24 more frequently they would lose the fundamental

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1 skill of shooting with iron sights. So that being
2 the case, the laser itself as -- as an improvement
3 tool, in my opinion, does not degrade the
4 fundamental skill of shooting and aiming without a
5 laser sight. I think there is other benefits that
6 it does provide. Being more accurate is one of
7 them. I mean, I think that's part and parcel to
8 what it is designed to do, but there are other
9 features that come with utilizing a laser
10 accessory sight on a firearm.

11 BY MR. TRESNOWSKI:

12 **Q. What are those other features?**

13 A. Well, for example, if we compare
14 using iron sights, a standard firearm has a front
15 sight and a rear sight. The distance between the
16 two are called the sight radius. The human eye
17 can only focus on one distance at a time and so
18 what ends up happening is as you're focusing on
19 the front sight, your rear sight is somewhat
20 blurry and then it creates sort of a tunnel vision
21 and it's hard to maintain situational awareness of
22 your periphery.

23 One of the important things that
24 a laser sight allows you to do is overcome that --

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1 that human deficiency, if you will, by -- if I had
2 an attacker, an aggressor, if I were to put -- if
3 I were to point my laser on my attacker, I don't
4 sacrifice any of the situational awareness. I'm
5 able to maintain a point of aim while
6 simultaneously visually assessing body language,
7 body movement, movement of others in the area, if
8 you will.

9 So it allows me as a defender in
10 that situation, under stress caused by adrenaline
11 and increased heart rate, to overcome the loss of
12 the fine motor skills that that would do and a
13 laser, I think, is a great tool for that because
14 I'm able to maintain more control in that
15 situation had I not had a laser sight because my
16 brain would be focusing on the -- the conflicting
17 visual focus between the front and the rear sight
18 and then not being able to focus on other things
19 around me which can also be very critical in a --
20 in a situation where you're under duress like
21 that.

22 I mean, clearly, hands are an
23 indicator of action that someone may take and if I
24 were to hold somebody at gunpoint, an intruder in

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1 BY THE WITNESS:

2 A. I understand it to a degree. With
3 respect to let's use the word confidence at the
4 range -- at the range, it's a training tool. Does
5 it make me feel more confident that I'm going to
6 train better? I don't think it does -- I don't
7 think it has an effect on confidence, but in a
8 situation where I hope to never find myself
9 defending my life or my family's life, would it
10 make me feel more confident in succeeding -- in
11 achieving success in the defense of myself, my
12 life or my family? Absolutely. Absolutely.
13 Because it's one less thing to worry about.

14 And it's really hard to say how
15 one is going to react when they're under stress,
16 when they're under attack. They think -- human
17 instincts kick in and they take over. You know,
18 the one -- it's one reason why we train because
19 when we -- when these situations present
20 themselves, all we have to rely on is our training
21 and if I go to the range and I train with a laser
22 or I train without a laser, I'm just creating
23 greater chances and odds of surviving a terrible
24 situation. Because, in that case, that's what I'm

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1 going to rely on.

2 BY MR. TRESNOWSKI:

3 Q. In a situation where you felt like
4 you had to defend your own personal safety and use
5 a firearm to do so, would you be able to defend
6 yourself if your laser sight happened to be broken
7 on your firearm?

8 A. Absolutely. We -- I'm one -- and
9 there are many people out there trained to their
10 point of failure. You know, I've also -- one of
11 the sayings I've always had is two is one and one
12 is none. You know, I'll carry two guns because if
13 one gun fails, I have a backup. I'll carry two
14 flashlights. If one fails, I have a back up. I
15 take that into my work. I have two -- I have two
16 sets of everything in my tool bag because if one
17 fails, I still have another one.

18 So just because somebody has
19 designed an accessory to make you more accurate or
20 help you in training, if -- if you rely on that as
21 your sole means of defense, in this case the
22 laser, then you've failed from day one. You train
23 for every possible scenario with a firearm. If my
24 laser doesn't work, if my batteries run out, if my

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1 it to fail. It could -- it could not have been
2 attached correctly, secured properly to the
3 firearm and the recoil of the firearm could cause
4 it to dislodge, for example. That's a failure.
5 The laser may work, the batteries may be good, but
6 if it's sitting on the ground, it's useless. So
7 there is many reasons for failure. I think those
8 are just a few.

9 **Q. But it's your position if the laser**
10 **sight failed, the laser sight wouldn't be**
11 **necessary to defend yourself, you would still be**
12 **able to defend yourself in that situation?**

13 A. Sure. And if my firearm failed, I
14 would use whatever I could to defend myself. But
15 the point is in a situation -- you know, if you're
16 put in a situation where you have to defend
17 yourself, you want to have every tool available to
18 you to do it as safely, easily and effortlessly as
19 possible. You know, if I'm being attacked by
20 somebody with a machete, for example, I'd prefer
21 to reach for my pistol instead of the baseball bat
22 next to the door because I don't want to combat
23 the guy with a baseball bat. I want to stop the
24 threat as quick as I can.

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1 So ideally none of this happens
2 in -- in -- in an ideal way. You just don't know.
3 But if I had a choice, if I was told that you
4 could either have a laser or iron sights, well,
5 iron sights are kind of -- they are part of the
6 design. So I'd rather have a laser than not have
7 a laser. Let's just put it that way.

8 **Q. It's your position that a laser**
9 **sight -- having the laser sight makes you more**
10 **effective at defending yourself?**

11 A. Absolutely. Absolutely.

12 **Q. But would it also make an attacker**
13 **more effective if they had a laser sight on their**
14 **firearm?**

15 MR. SIGALE: Objection as to
16 speculation. Go ahead. If you can answer.
17 BY THE WITNESS:

18 A. Well, if an attacker is going to
19 have a laser sight, wouldn't I want to have at
20 least an equalizer against him, if not an
21 advantage?

22 BY MR. TRESNOWSKI:

23 **Q. That's not -- that's not my**
24 **question.**

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1 C R O S S E X A M I N A T I O N

2 BY MR. SIGALE:

3 Q. So, Tony, just to clarify, you have
4 a conceal carry permit in the State of Illinois?

5 A. Correct.

6 Q. And, if allowed, you would -- when
7 carrying a firearm in the City of Chicago, if
8 allowed, you would attach a laser sight?

9 A. Absolutely.

10 Q. Because you believe -- for the
11 reasons you stated, you believe that it would aid
12 you in self-defense?

13 A. Absolutely.

14 Q. Is -- I'm just -- just so I make
15 sure I'm clear. For you personally, is that the
16 only reason or is that what you've described or
17 are there any other reasons why a laser sight
18 would be -- by having a laser sight would be
19 advantageous or preferable for you?

20 A. Well, it would be advantageous
21 additionally because of, you know, my aging
22 eyesight. I don't see as well as I used to. You
23 know, I have -- even though I do wear prescription
24 glasses and I've had LASIK surgery, I've come to

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1 find as I've gotten older, I'm sort of the reverse
2 of most people. I can't see up close with
3 glasses, but -- so which is sort of the reverse of
4 reading glasses, if you will.

5 So for me to have a laser
6 regardless of the lighting conditions to be able
7 to see where my aim is on target I think is
8 beneficial for me in the fact that my eyesight is
9 getting worse over the years and I think that's
10 also a benefit to others. There is plenty of
11 people out there who have poor eyesight and as we
12 all know it degrades with age.

13 **Q. You know, what about in the dark, I**
14 **mean, does that -- does having a laser help?**

15 A. Absolutely.

16 **Q. Well, let me finish the question.**
17 **Does having a laser sight on a -- on a firearm for**
18 **a self-defense situation in the dark help that**
19 **person with self-defense?**

20 A. Extremely. It does.

21 **Q. How so?**

22 A. Because it's going to illuminate
23 without -- say, for example, if I'm startled in
24 the middle of the night and I reach over to my

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1 nightstand, there is an intruder in my house, if I
2 turn the lights on, I'm going to be blinded.
3 There is going to be an initial phase of what --
4 whether it's 10 seconds or 20 seconds until my
5 eyes adjust to the room. That could -- those 10,
6 20 seconds could be the difference, you know,
7 between life and death. So if I'm able to
8 maintain, for example, a darkness and utilize an
9 accessory on my weapon that cuts through that
10 darkness and as soon as I put that laser on target
11 in a stressful situation, it's going to become --
12 it's going to make me become more effective and
13 successful in defense.

14 **Q. And for -- let me adapt what you**
15 **said and move your defense scenario to nighttime**
16 **on a city street.**

17 A. Absolutely.

18 **Q. For the same reasons you just**
19 **described? I don't want to make you repeat the**
20 **whole thing.**

21 A. Absolutely. It would definitely,
22 you know, in a dark situation, a dark alley -- you
23 know, I've been on city streets and also out in
24 the suburbs as well. I don't think it's just an

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1 issue with the city. But there are whole blocks
2 that the street lights are out and it's not
3 intermittent. Sometimes I've seen it like that
4 for months. So, you know, for example, when I
5 lived in the city, you know, I would run out in
6 the middle of the night to get something from the
7 store or pick up some, you know, takeout or
8 something and I'm walking down the alley to go up
9 my backdoor and there is no lights. Sure, if I
10 had a laser, it would help me see where I'm aiming
11 and become effective if somebody were to attack
12 me.

13 The other thing, too, you know,
14 I foresee a scenario if you're being attacked, if
15 you're running, if you're being attacked by
16 multiple attackers, you're being, you know,
17 assaulted, you're fumbling to unholster your
18 weapon and you may not have a, you know, good line
19 of sight, if I can see that laser and I know that
20 laser is on target and that's going to neutralize
21 my attacker, absolutely. It is a benefit without
22 a doubt.

23 **Q. Can you -- can you talk about**
24 **scenarios where an attacker might just see the**

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1 **laser on, say, his chest and --**

2 A. Absolutely, it's a deterrent. It's
3 a deterrent. I mean, we see it in movies. You
4 know, the fact is if -- if I were -- regardless if
5 I had good intentions or bad intentions, if I see
6 a laser on my chest, I'm going to be deterred to
7 put it politely. I'm probably going to do much
8 more than that.

9 Q. And let me -- let me ask you this,
10 **Tony. You know, you said you haven't put**
11 **yourself -- had to be in that terrible**
12 **self-defense situation, but if you ever were,**
13 **would it be your preference to shoot the attacker**
14 **or stop the attack without having to shoot?**

15 A. The second, the latter. You know, I
16 am prepared to defend my life and my family's life
17 at all costs, but under that scenario there is a
18 lot of, I think, psychological baggage that comes
19 with it. So, honestly, I don't ever want to have
20 to shoot anybody or know that whether they were
21 good or bad that I had to defend myself and in
22 doing so I took a life.

23 If I can avoid that and whether
24 it's for selfish reasons or otherwise, I'd prefer

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1 not to have to shoot somebody if I didn't have to
2 and if I had something that was a deterrent such
3 as a laser sight that could, you know, stop an
4 attack without, you know, bloodshed, I'm all for
5 it. I think -- you know, life -- life is sacred.

6 **Q. So unlike the movies where Arnold**
7 **Schwarzenegger mows something -- everyone down, in**
8 **real life if you could avoid that and stop the**
9 **attack without it --**

10 A. Absolutely.

11 **Q. -- that would be your preference?**

12 A. Absolutely.

13 **Q. Do you foresee a scenario where a**
14 **laser sight used properly by a law-abiding person**
15 **is dangerous to people in any way?**

16 A. No.

17 **Q. Do you see any scenario where the**
18 **proper use of a laser sight by a law-abiding**
19 **person is a danger to public safety in any way?**

20 A. No.

21 MR. SIGALE: That's all I have.

22 Thanks.

23 MR. TRESNOWSKI: I just have a
24 couple quick follow-ups on that.